



BILLING CODE: 4510-29-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employee Retirement Income Security Act of 1974 Technical Release 1991-1

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, “Employee Retirement Income Security Act of 1974 Technical Release 1991-1,” to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201805-1210-002 (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-EBSA, Office of Management and Budget, Room 10235, 725 17th Street, N.W., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov.

Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, N.W., Washington, D.C. 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Employee Retirement Income Security Act of 1974 (ERISA) Technical Release 1991-1 information collection. The subject information collection requirements arise from ERISA section 101(e), which establishes notice requirements that must be satisfied before an employer may transfer excess assets from a defined benefit pension plan to a retiree health benefit account, as permitted under conditions set forth in Internal Revenue Code of 1986 as amended section 420. *See* 29 U.S.C. 1021(e); 26 U.S.C. 420. ERISA section 101(e) notice requirements are two-fold. First, subsection (e)(1) requires a plan administrator to provide advance written notification of any such transfer to participants and beneficiaries. Second, subsection (e)(2)(A) requires an employer to provide advance written notification of any such transfer to the Secretaries of Labor and the Treasury, the

plan administrator, and each employee organization representing participants in the plan. Both notices must be given at least sixty (60) days before the transfer date. The two subsections prescribe the information to be included in each type of notice and further authorize the Secretary of Labor to prescribe (1) how notice to participants and beneficiaries must be given and (2) any additional reporting requirements deemed necessary.

ERISA Technical Release 91-1 provides guidance on how to satisfy the subject ERISA notice requirements. The Release made two changes in the statutory requirements for the second type of notice. First, it required the notice to include a filing date and the intended asset transfer date. The Release also simplified the statutory filing requirements by providing that filing with the DOL would be deemed sufficient notice to both the DOL and the Department of the Treasury. ERISA section 101(e) authorizes this information collection. *See* 29 U.S.C. 1021(e).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210-0084.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the DOL seeks to extend PRA authorization for this information collection for three

(3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the *Federal Register* on April 11, 2018 (83 FR 15635).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section within thirty (30) days of publication of this notice in the *Federal Register*. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210-0084. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL-EBSA.

Title of Collection: Employee Retirement Income Security Act of 1974 Technical
Release 1991-1.

OMB Control Number: 1210-0084.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 4.

Total Estimated Number of Responses: 26,966.

Total Estimated Annual Time Burden: 422 hours.

Total Estimated Annual Other Costs Burden: \$6,917.

AUTHORITY: 44 U.S.C. 3507(a)(1)(D).

Dated: August 27, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018-19100 Filed: 8/31/2018 8:45 am; Publication Date: 9/4/2018]